THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, 10th August, 2006

W.P.No.23355 of 2005

Between:

A. Janardhan Naidu … Petitioner

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The District Collector, Kurnool District,
Kurnool and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.23355 of 2005

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the Proceedings in Rc.CS3/505/05, dated 23-9-2005 of the 1st respondent setting aside the Order of the 2nd respondent in Rc.CS3/333/2005, dated 6-8-2005 of the 2nd respondent as arbitrary and illegal.

It is the case of the petitioner that himself and the 4th respondent applied for grant of authorization for the fair price shop at Gorantla village, Kodumur Mandal, Kurnool in pursuance of a notification issued by the 3rd respondent on 2-6-2004. He was interviewed along with the 4th respondent for the said dealership. Respondent No.4 was selected and was appointed by an Order dated 17-5-2005 of the 3rd respondent. Aggrieved by the same, the petitioner carried the matter in appeal before the 2nd respondent stating that the 4th respondent was not an unemployee and his antecedents were not properly verified. He was doing apprenticeship with A.P. State Road Transport Corporation; therefore, he is not entitled for being appointed as a fair price shop dealer. Respondent No.2, after hearing both the parties, however, allowed the appeal on 6-8-2005 holding that the selected candidate-4th respondent herein was undergoing apprenticeship in APSRTC Bus Depot at Dhone and running shop through somebody (benami) and it is clearly a violation of PDS Control Orders,2001; as

such, the Order passed by the 3rd respondent were set aside and directed the 3rd respondent to conduct interview for the remaining candidates and select one of them. Challenging the same, the 4th respondent carried the matter in revision before the 1st respondent-District Collector, who, by an Order dated 23-9-2005, allowed the revision and reversed the findings recorded by the 2nd respondent and thus set aside the Order of the 2nd respondent dated 6-8-2005. While allowing the revision, the 1st respondent noticed that the petitioner has produced a certificate from the APSRTC Bus Depot at Dhone to the effect that 'this would not in any way confirm any right upon the apprentice to claim regular/permanent employment in APSRTC in future and further he has absent for his apprenticeship w.e.f. 01-08-2005'. Assailing the said Order, the present Writ Petition is filed.

Learned counsel for the petitioner strenuously contended that as on the date of notification and as on the date of his appointment, the 4th respondent was disqualified for being appointed as a fair price shop dealer; therefore, the 2nd respondent was right in allowing the appeal and directing the 3rd respondent to conduct fresh selection; whereas the 1st respondent, without properly considering the situation as on the date of appointment, has taken subsequent events into consideration and allowed the revision, which is arbitrary and illegal.

It is a fact that the 4th respondent was doing his apprenticeship with APSRTC at Dhone Depot from 22-2-2004, which was to be completed by 22-2-2006. However, in the meanwhile, a notification was issued by the 3rd respondent on 2-6-2004; pursuant to which he was selected and was appointed as fair price shop dealer of Gorantla village. Thereafter with effect from 1-8-2005 the 4th respondent

remained absent for his apprenticeship and discontinued. Apprenticeship is not a regular appointment nor the apprentice has any right to be appointed immediately thereafter as certified by the Depot Manager, APSRTC, Dhone. Further, though an appointment order was given on 17-5-2005 by the 3rd respondent, since immediately the petitioner herein filed an appeal before the 2nd respondent, the 4th respondent did not take over as a dealer and his appointment could not be finalized upto the disposal of the revision i.e. on 23-9-2005. Except stating that an apprentice is not entitled for appointment, no rule or guideline has been brought to the notice of this Court, which prohibits an apprentice from applying for dealership of a fair price shop. However, even before that, with effect from 1-8-2005 he remained absent and left the apprenticeship. Therefore, taking a lenient view of the matter, the 1st respondent in his wisdom and taking a pragmatic approach to the problem allowed the revision. I am of the opinion that the 1st respondent has not committed any error in passing the impugned Order calling for interference of this Court under Article 226 of the Constitution of India. The Writ Petition is devoid of merits and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

10-8-2006

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